

MONTANA LEGISLATIVE HISTORY

Chapter 136 1987

Bill H 208 S _____

Original bill & history 1 C

H. Committee on Nat. Resources

Hearing Date(s) 1/21 _____ C

_____ C

_____ C

_____ C

Date Out 1/23 _____ C

S. Committee on Nat. Resources

Hearing Date(s) 3/04 _____ C

_____ C

_____ C

_____ C

out 3/04

Did this bill originate in an interim committee? _____ Yes ☒ No

Committee _____

Report _____

1 HB BILL NO. 208
2 INTRODUCED BY Adley
3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING STATE OIL
6 LESSEES TO DEDUCT PROPORTIONALLY THE COSTS OF TRANSPORTING
7 OIL TO MARKET; AND AMENDING SECTION 77-3-432, MCA."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 77-3-432, MCA, is amended to read:
11 "77-3-432. Royalty. In every oil and gas lease granted
12 by the state under this part and acts amendatory thereto,
13 there shall be reserved to the state as consideration
14 therefor, in addition to the rentals as hereinbefore
15 provided, a royalty in all oil and gas produced and saved
16 from all lands covered thereby and not used for light, fuel,
17 and operation purposes on the leased premises, which shall
18 be equivalent to the full market value, as ascertained by
19 the board at the date of such lease, of the estate or
20 interest of the state in the lands and oil and gas deposits
21 disposed of under such lease. Such royalty reservation shall
22 be set by the board but may not be less than 12 1/2% on gas
23 and not less than 12 1/2% on that portion of the average
24 production of oil or casinghead gasoline for each producing
25 well not exceeding 3,000 barrels for the calendar month. If

1 oil cannot be sold by the lessee at the wellhead to a
2 purchaser, then the state will share the expense of
3 transporting the oil to the nearest market on a basis
4 proportional to the state's royalty interest in such oil,
5 and at a rate per mile acceptable to the department."

6 NEW SECTION. Section 2. Extension of authority. Any
7 existing authority of the department of state lands and the
8 board of land commissioners to make rules on the subject of
9 the provisions of this act is extended to the provisions of
10 this act.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for HB208, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill would allow state oil lessees to proportionally share the cost of transporting oil to market.

ASSUMPTIONS:

1. Fifty percent of all crude oil produced on state trust lands is transported by truck.
2. The average trucking charge is \$.90 per barrel.
3. Production for the next two years will be at the October, 1986 level.
4. New leases drilled will be at the 13% royalty rate.
5. There will be no appreciable workload increase in implementing this bill.

FISCAL IMPACT:

Expenditures:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
<u>Revenues:</u>						
School Trust Funds	\$ 346,000	\$ 336,000	\$ (11,000)	\$ 386,000	\$ 376,000	\$ (11,000)

David L. Hunter
DAVID L. HUNTER, BUDGET DIRECTOR

DATE

1/20/87

Office of Budget and Program Planning

Kelly Addy

DATE

2/2/87

KELLY ADDY, PRIMARY SPONSOR

Fiscal Note for HB208, as introduced.

HB 208

HOUSE FINAL STATUS

1/14 REFERRED TO JUDICIARY
 1/22 HEARING
 2/03 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/05 2ND READING PASSED 90 4
 2/06 3RD READING PASSED 97 1

TRANSMITTED TO SENATE
 2/10 REFERRED TO JUDICIARY
 3/23 HEARING
 3/26 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 3/28 2ND READING CONCURRED 50 0
 3/30 3RD READING CONCURRED 50 0

RETURNED TO HOUSE WITH AMENDMENTS
 4/07 2ND READING AMENDMENTS CONCURRED 83 0
 4/08 3RD READING AMENDMENTS CONCURRED 91 0
 4/10 SIGNED BY SPEAKER
 4/11 SIGNED BY PRESIDENT

4/11 TRANSMITTED TO GOVERNOR
 4/16 SIGNED BY GOVERNOR
 CHAPTER NUMBER 507 EFFECTIVE DATE: 10/01/87

HB 208 INTRODUCED BY ADDY
 ALLOWING STATE OIL LESSEES TO DEDUCT PROPORTIONALLY
 OIL TRANSPORTATION COSTS
 BY REQUEST OF DEPARTMENT OF STATE LANDS

1/14 INTRODUCED
 1/14 REFERRED TO NATURAL RESOURCES
 1/14 FISCAL NOTE REQUESTED
 1/20 FISCAL NOTE RECEIVED
 1/21 HEARING
 1/26 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/29 2ND READING PASSED 95 0
 1/30 3RD READING PASSED 98 0

TRANSMITTED TO SENATE
 2/02 REFERRED TO NATURAL RESOURCES
 3/04 HEARING
 3/05 COMMITTEE REPORT--BILL CONCURRED
 3/09 2ND READING CONCURRED 50 0
 3/11 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
 3/14 SIGNED BY SPEAKER
 3/14 SIGNED BY PRESIDENT

3/16 TRANSMITTED TO GOVERNOR
 3/19 SIGNED BY GOVERNOR
 CHAPTER NUMBER 136 EFFECTIVE DATE: 10/01/87

HB 209 INTRODUCED BY GILBERT
 LIMIT RECOVERY FOR NONECONOMIC DAMAGES

1/14 INTRODUCED
 1/14 REFERRED TO JUDICIARY
 1/21 HEARING
 2/19 TABLED IN COMMITTEE

HB 210 INTRODUCED BY GRADY, ET AL.
 REQUIRE INVESTIGATION OF GAME DAMAGE COMPLAINT
 WITHIN 48 HOURS

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on January 21, 1987 at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Reps. Harp and Harper.

HOUSE JOINT RESOLUTION NO. 6: Rep. Ted Schye, District #18, sponsor, gave a brief review of the background of the Resolution. He stated the salt water injection wells are going into the Judith Formation which is not a producing formation, nor an oil producing formation. Wolf Point has one of their city water wells in this formation. They do not use this water well, except in extremely dry times of the year. They can use it if they have to, but it is the same formation the salt water is going into. The intent of this Resolution is to propose Legislation putting into statute, any oil company taking salt water out of the ground, put it back in a producing formation. This is controlled by the EPA, however, Montana statutes have no effects over the EPA. Legislation is coming that would give authority to the state instead of the EPA, if passed. However, this being on an Indian reservation, makes no difference, and the EPA will still have control.

What HJR 6 does is states concerns about the salt water being pumped in these areas, with there not being enough data to actually know what damage it's doing to water quality. We would like the EPA to establish monitoring and data collections on the wells to be sure they are correct on existing wells, and to start postponing adding new wells, until they get this data and can support it. (Exhibit 1).

NO PROPONENTS

NO OPPONENTS

Rep. Simon stated doesn't the resolution pre-judge, without the needed scientific data available.

Rep. Schye stated the reason they are so interested in getting some accurate data, is every day, these injection wells are putting salt water down there, and to continue and justify these wells, there must be sufficient data there.

Rep. Asay asked if presently, there was monitoring of the underground water, and if so, how accurately is this information put together.

Rep. Schye stated there is some monitoring being done by the tribes. They have hired a geologist, but, they too are feeling a budget crunch, and aren't studying the shallow wells as they should, thus, do not have the accurate information.

Rep. Asay referred to the phrase "phasing out" and wondered if the existing wells are definitely "bad news."

Rep. Schye stated in terms of the break of East and West, in the wells to the East, the groundwater is not usable, and to the West, they are using some water for their livestock. The major concern is that they don't keep moving the disposable wells. As far as the East formation is concerned, it is not a producing formation and don't know if the water is backing up or not.

Rep. Roth had questions regarding the amendment and wanted to know what "reasonable time" meant.

Rep. Schye stated this was a question in his mind also. He had some people state two weeks, some say 15 years. He explained when dealing with the EPA, we can't expect to have it in two or three weeks. This Resolution is merely a statement that says what is felt. We'd like to try a six month time limit, but that does not necessarily mean it will happen.

Rep. Schye closed stating this way very important to the people in the Glasgow area that farm on the bench. It is the only water they have and their wells are 700 feet deep. This water is not good to drink, but they do, if necessary. They can't get any water at any other level, and the people are worried. If they are going to keep the wells, they should at least make sure they are tested for contamination, because once the wells are contaminated, they will never be good again.

Hearing closed on HJR 6.

HOUSE BILL NO. 208: Rep. Kelly Addy, District #94, sponsor, stated this was a request from the Department of State Lands. HB 208 deals with transportation costs from the well site to the market on state lands. Under the state oil and gas lease, the lessee assumes all risk in the exploration and drilling for oil, and is required to sell the crude oil in a competitive market at his own expense. Because of poor marketing today, the oil lessees have asked the state for help regarding the transportation costs. The current state lease requires royalty payments "free of costs and reductions" based upon a fair market value price for crude oil. The trucking charge to transport oil from the lease to market is paid by the working interest and is usually temporary awaiting pipeline service to the well. Passage of HB 208 will allow an oil lessee to only pass on a portion of the trucking charges to the state if oil cannot be sold at the wellhead to a purchaser. The trucking charge cost to the state would be based on the state's percentages of royalty ownership times the total trucking cost per barrell. If the cost of trucking oil is \$1.00/barrell, the deduction would be 13c per barrell to the state. The rate charges per mile must be acceptable to the department (Exhibit 2).

PROPONENTS: Dennis Hemmer representing the Department of State Lands distributed testimony (Exhibit 3). He stated their leases presently don't allow for the deduction of transportation charges. This is a fairly recent interpretation and might be inconsistent with the way other individuals have their leases, which is basically in conflict with their state leases. They feel they should be allowed to take a proportional portion of their trucking charges if they have to transport the oil to a market. Mr. Hemmer referred to the fiscal note and stated there is some dispute of about \$11,000. Many of the wells that require transportation to, are stripper wells. The 13c a barrel could actually influence the economics of the well, and out feeling is the \$11,000 is probably about "a wash" in revenue.

Janelle Fallon, Executive Director, Montana Petroleum Association stated these transportation charges were considered to be part of the posted price, and were deducted by operators up until last spring. The DSL in re-reading the statutes, decided it was not in keeping with their statutes, and did not have the authority to do it. MPA supports HB 208 with the suggested amendment.

NO OPPONENTS

Rep. Miles asked Mr. Hemmer why they felt this would be a "fiscal wash?"

Mr. Hemmer stated some wells are right at the economic margin, and as long as the well is producing, the state is making money off these wells, which helps keep those marginal wells up. At the present price of oil, many of those wells have gone into that marginal category.

Rep. Cohen asked Rep. Addy what the price of oil is today.

Janelle Fallon addressed this and stated that as of Monday, the price of oil was \$15.25 a barrel.

Rep. Cohen asked if it was reasonable to suppose that should the price per barrel go up, and the refineries refuse to do their own trucking, and the assistant producers do the trucking, will that leave our state in the business of subsidizing all the oil producers.

Rep. Addy stated that at the kind of return he talked about, \$22 or \$25 a barrel, this would be a very wise business decision for the state to make.

Rep. Cohen asked if Rep. Addy has seen the fiscal note on HB 208.

Rep. Addy stated he had seen it, and commented there was an error in the note, of \$11,000 that Mr. Hemmer mentioned.

Rep. Cohen then objected for the record as to the scheduling of bills of this magnitude without the correct fiscal notes. He feels the leadership should get this under control before some of these decisions are made.

Rep. Meyers asked that assuming the lessees work on the basis of a bid, would this reduce the amount they bid by percentage.

Rep. Addy stated as DSL stated, up until last spring, this method was used to compute the state oil and gas leases. Most of the people that have bid on state land did so under the belief that this is the way, as proposed in HB 208, that the revenue and expenses would be proportioned between the parties. When they got the new interpretation last spring, some people who had already bid on these leases, got a big surprise. DSL would then come in and say, we made a deal with you on the basis of one understanding, and we want to keep our end of the deal.

Dennis Hemmer added that it does not affect the bid. The bid is a bonus bid for the lease and considered an up front payment. Much like a lump sum payment that pays the front end.

Rep. Smith asked if HB 208 is similar to what is done with timber products, whereas the further from point of delivery, the less it is worth and that's what trying to be done here.

Dennis agreed with Rep. Smith stating that in figuring our escalation and de-escalation of timber contracts, this is another factor that is involved.

Rep. Simon asked if the private landowner shares in the transportation costs, similar to asking the state to share in transportation costs.

Janelle Fallon stated yes, there is generally no difference between private and state land in this case.

Rep. Miles referred to the "rate per mile acceptable to the department" and felt this is left "wide open". She wondered if this was to be set by rule, and what is considered an "acceptable rate."

Mr. Hemmer stated the reason for this is it gives DSL protection against potentially exorbitant charges. Each lease is different, and the problems are separate in every situation. We could set them by rule, but if this were the case, an audit of those expenses would be anticipated.

Rep. Cohen wanted to know the cost of transportation.

Dennis Hemmer stated if a transportation cost of \$1.00/barrel, then the transportation charge on the states' share would be 13 cents a barrel.

Rep. Cohen asked Janelle Fallon if the price of oil fluctuates on a daily basis, and what kind of fluctuations have there been.

Ms. Fallon stated this has not been a normal year for oil, however, Montana refineries use to post a monthly price. Because of the daily fluctuations, they now post a price on a day to day basis. Since 1986, the price of oil has dropped 50%, which is considered an extreme fluctuation.

Rep. Raney asked Rep. Addy if this bill is basically concerned with fairness, but also, wondered if we should be concerned with the price of oil.

Rep. Addy stated it's basically saying, "a deal is a deal." The price of oil does not have anything to do with his purpose in carrying the bill.

Hearing closed on HB 208.

EXECUTIVE SESSION

HOUSE JOINT RESOLUTION NO. 6: Rep. Addy moved HJR 6 DO PASS. Rep. Miles moved the amendment suggested by Rep. Schye. Question being called on the amendment, the motion CARRIED unanimously. See Standing Committee Report No. 1. Rep. Addy moved HJR 6 DO PASS AS AMENDED. Question being called, the motion CARRIED unanimously.

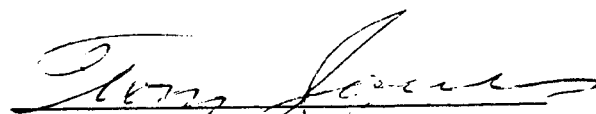
HOUSE BILL NO. 154: Rep. Kadas moved HB 154 DO NOT PASS.

DISCUSSION: Reps. Simon, Kadas, Miles, Raney and Addy stated this was a needless bill, due to the fact that a preference had already been defined. It was also felt that in establishing priorities, a specific mechanism should be used for these priorities. This being a two year program only, would be a useless exercise, wasting time and money.

Reps. Peterson, Asay, Grady and Cobb spoke against the Do Not Pass motion, stating they feel the committee should be giving some direction to agriculture, and making clear what priorities do need to be set. Agriculture is the biggest industry in the state, and we need to recognize the need for conserving water and directing funds for these projects.

Rep. Addy moved to TABLE HB 154. Question being called, a roll call vote was taken, the motion carried 10-6.

ADJOURNMENT: Being no further business, the meeting was adjourned at 1:55 p.m.


TOM JONES, CHAIRMAN

BACKGROUND FOR
REPRESENTATIVE KELLY ADDY
HOUSE BILL NO. 208

An act allowing state oil lessees to deduct proportionally the costs of transporting oil to market; and amending section 77-3-432, MCA.

The Department of State Lands administers approximately 8,000 oil and gas leases of which 350 are in producing status. Under the state oil and gas lease, the lessee assumes all risk in the exploration and drilling for oil and is required to sell the crude oil in a competitive and fair market at his own expense. Because of the poor marketing situation today, the oil lessees have asked the state for help regarding transportation costs.

The current state lease requires royalty payments "free of costs and deductions" based upon a fair market value price for crude oil. The industry argues that the price used to compute royalties must reflect the distance from the refinery or pipeline portal where the sale actually occurs. The trucking charge to transport the oil from the lease to market is paid by the working interest and is usually felt to be temporary awaiting pipeline service to the well. The lease language is against industry standards as well as other surrounding states and federal agency practices.

The passage of this bill will allow an oil lessee to only pass on a portion of the trucking charges to the state if oil cannot be sold at the wellhead to a purchaser. The trucking charge cost to the state would be based on the state's percentages of royalty ownership times the total trucking cost per barrel. If the cost of trucking the oil is \$1.00 per barrel, then the deduction would be 13¢ per barrel to the state. The rate charged per mile must be acceptable to the department.

EXHIBIT (3)
DATE 1-21-87
HB 208 ADDY

TESTIMONY ON HOUSE BILL 208

The Department of State Lands supports the passage of House Bill 208 that would allow the deduction of the costs of truck transportation of the state share of oil to market. The Department has 136 oil producing leases of which approximately 50% have their oil transported by truck to a marketing facility. The average cost for transportation is 90¢ per barrel, therefore, the deduction to the state royalty would be approximately 12¢ per barrel.

The passage of this bill will put the State of Montana leases in line with other states such as Wyoming and North Dakota and federal oil leases. By charging the transportation costs to the state share based on the royalty percentage share, the state is being fair to the oil producer who is actually marketing the state oil. The Department feels that clearing up this issue will be an incentive to the producers of oil on state lands and especially the independent and small oil operators based in Montana. The majority of the small oil producers crude is transported by truck.

I would ask your passage of House Bill 208.

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

January 23, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on January 23, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present.

HOUSE BILL NO. 230: Rep. Marion Hanson, District #100, sponsor, stated HB 230 was at the request of the Department of State Lands, which generally revises the Montana Strip and Underground Reclamation Act, in order to bring it in compliance with federal law. Currently, the strip, underground coal, and uranium mining are regulated under the Montana Strip and Underground Reclamation Act. However, several related activities are not, including the remining of previously mined abandoned sites and the processing of coal prior to end use, either on or off-site. She stated both have the potential for impact including the damaging of hydrologic resources and the potential for sites to remain unreclaimed. Minor changes have been proposed to amend the act, under which coal and uranium mining are regulated. The net effect of the changes is to allow regulation of remining activities of coal preparation. By adding these two activities to the list, it insures Montana the reclamation of the sites where these activities take place, as well as insure minimization of off-site impact. Some of the sites would be abandoned mine sites, and by requesting reclamation, monies from the abandoned sites are potentially a greater significance. The U.S. Office of Surface Mining Reclamation, which oversees the Montana program, is requiring such regulation. As a result of several court cases, state law must conform with federal law in order to insure the state's ability to continue the regulating of coal reclamation activities within the state. In addition, the fee for mining related activities is purposed to increase \$50 which would bring the application fee in line with other fees provided for in the act. The proposed change would make the fee equitable for both types of operation.

PROPONENTS: Dennis Hemmer, Director, Department of State Lands, submitted testimony (Exhibit #1). He stated the major effect of these changes is to allow regulation of remining activities and of coal preparation (prior to end use). By adding these two activities to the list of regulated activities, Montana is able to assure the reclamation of the sites where these activities take place, as well as

assure minimization of off-site impacts. The other main reason for requiring remining and coal preparation activities to be regulated is because the U.S. Office of Surface Mining Reclamation and Enforcement, which oversees the program, is requiring such regulation. Much of this, at the federal level, is the outgrowth of several court decisions. The state act must conform to the federal act. The Department recommends approval of the bill.

JIM MOCKLER, Executive Director, Montana Coal Council, stated they had no objections to the bill, and obviously, must comply with federal laws.

KEN WILLIAMS, on behalf of Western Energy, stated support for HB 230 as amended by the Department.

NO OPPONENTS

REP. SIMON asked what would happen if they did not change the laws to comply?

MR. HEMMER stated they are being required by OSM, and if they did not have their law as effective, at that point, the federal officers of OSM would come in and take over the state program.

REP. COBB asked Mr. Hemmer what a "gob pile" was.

MR. HEMMER stated "gob pile" was coal waste usually related to underground activities and composed mostly of dirt and coal.

REP. HARPER questioned the amendment and felt it was taking out something the bill was written to put in.

DENNIS HEMMER stated what was involved was the concern of getting into an act drafted primarily for the mining operation without covering those facilities. Primarily, it was trying to take out an area that may be confusing and make it very clear that they apply to the whole spectrum of the mining facilities.

REP. HANSON closed by stating it was important for the state to have the control to keep in compliance with the federal requirements, and not turn our "at hand" authority over to someone out of state.

HEARING WAS CLOSED ON HB 230.

HOUSE BILL NO. 246: Rep. John Cobb, District #42, sponsor, stated HB 246 was at the request of a private citizen, and required applicants who wish to establish a well spacing

unit for an oil and gas well or for the pooling of interest in well spacing unit, to give actual notice to inform parties effected by the application. At this time, he asked the committee to hold the bill until, at which time, some of the oil companies might have a chance to look into more detail of what "notice" actually meant in order to clarify existing language. He stated there were several questions in that area, and he would like to be able to hear from these companies and report to the committee before they make a final decision. He added the bill simply clarified the need to give better notice to those parties who have the units. Notice was important, due to the fact these units had a large effect on original revenue and types of payments. He reserved the right to close.

PROPOSERS: Tommy Butler, attorney for the Department of State Lands, stated he appeared that day as a private citizen. He stated he was surprised there were not notice provisions available at the present time. To clarify HB 246, spacing established an area of a single producing or gas formation that can efficiently and economically drain from one well. The other function of the board was to pool the interests within the space unit that establishes specific fractions of production in that single well, to which each owner was entitled to receive. The reason for the bill was to give the farmers and ranchers constitutional protection. Other states have had the same set up. The Oklahoma court case stated that if an oil company knew the actual address of the owner of mineral interests and intended to pool the well without giving that person actual notice, that would be unconstitutional and could not be done. Enacting HB 246 would require those companies to give actual notice to the farmers and ranchers. He did suggest more explicit language to alleviate specificity including at least 20 days prior to the hearing date so applicants can establish a well spacing unit for pooling, and written notice be served to record holders of the oil tax and lease hold interests sought to be spaced or pooled.

JEROME ANDERSON, attorney, representing Shell Oil Company, stated they understood the problem, but would like to have the opportunity to look and see what has been done in other surrounding states so notice provisions would be reasonable and capable of being carried out. Shell supported HB 246 with the amendment.

NO OPPONENTS

REP. ADDY asked what other notices were required to be given to the record holder per the amendment. He also wondered if there were other kinds of notices required to be given the same way.

MR. BUTLER stated the notice would not be given through the Clerk and Recorder's Office, but mailed directly to the address. If the leases were updated frequently there was less chance of the address being incorrect or obsolete. If they were not, other notices were required giving addresses to those people having a lease hold interest who were more likely to keep their address accurate knowing they could expect to get all notices at that address. It should be made clear how important it is to update the addresses on a periodic basis.

REP. MILES asked Mr. Butler to elaborate on what the consequences of inadequate notice would be and, if notice was given, what opportunities did they have that they would otherwise not have.

MR. BUTLER stated the opportunities are to actually appear with the chances of possible overreaching on the part of unethical individuals. He stated, as in Oklahoma, people look at the poolings and determine who the unleased mineral interest owners were. If those owners were in other states, they then offer to buy the mineral interests for a ridiculous sum. Therefore, if you did not know what was going on, you would be selling away a valuable right.

REP. ASAY stated a case of an unrecorded mineral interest where someone had the minerals and sold their property with no present mandate recorded. Then, two or three at a time, people could actually own the mineral rights with there being no record of it. Presently, they have tried to correct it with not too much success; however, he wondered what would happen if a pooling arrangement were perhaps set up that was not recorded.

MR. BUTLER stated generally, most people, before attempting to drill a well, usually tried to add at least 95% of the leaseholder interest. Otherwise, it was not prudent to drill a well. There are a number of significant interests outstanding; however, sometimes title changes just did not show up regarding mineral interests and that was when the attorneys step in and go to work.

REP. COBB closed by asking the committee to hold taking any action until Monday or Wednesday to allow these companies to work out the language. He stated it was important to give accurate notice if it could not be worked out. The law could stay the way it was.

HEARING WAS CLOSED ON HB 246.

EXECUTIVE ACTION

HOUSE BILL NO. 208: Rep. Harp moved HB 208 DO PASS. Rep. Addy moved the amendment suggested by DSL.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 208: Rep. Harp asked if the new section was a grandfather clause.

Rep. Addy stated it did apply to existing oil leases and if they were going to be fair to one, they must be fair to all.

Rep. Harper asked why change "will" to "may"?

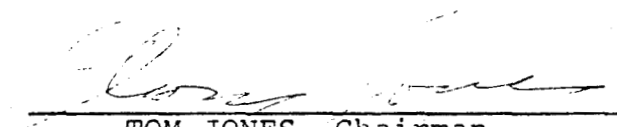
Hugh Zackheim, researcher, stated the language gave extension of authority and also extended the department's existing authority.

Question was called on the amendment. The motion CARRIED unanimously. See Standing Committee Report No. 1.

Rep. Addy moved HB 208 DO PASS AS AMENDED. Question was called. The motion CARRIED unanimously. See Standing Committee Report Nos. 1-3.

HOUSE BILL NO. 230: Rep. Harp moved HB 230 DO PASS and moved the amendment offered by DSL. Question was called on the amendment. The motion CARRIED unanimously. Rep. Roth moved HB 230 DO PASS AS AMENDED. Question was called. The motion CARRIED unanimously. See Standing Committee Report Nos. 1-7.

ADJOURNMENT: There being no further business to come before the committee, the hearing was closed at 1:55 p.m.



TOM JONES, Chairman

STANDING COMMITTEE REPORT

JANUARY 23

19 87

Mr. Speaker: We, the committee on NATURAL RESOURCES

report HB 208

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. TOM JONES

Chairman

"AN ACT ALLOWING STATE OIL LESSEES TO DEDUCT PROPORTIONALLY THE COSTS OF TRANSPORTING OIL TO MARKET; AND AMENDING SECTION 77-3-412, ACA."

1. Page 1, line 25 through line 2, page 2.
Following: "month." on line 25
Strike: remainder of line 25 through "then the" on line 3,
page 2
Insert: "The"
2. Page 2, line 2.
Strike: "will"
Insert: "may"
3. Page 2, following line 5.
Insert: "NEW SECTION. Section 2. Applicability to existing and new leases. Section 1 is applicable to state oil and gas leases existing on [the effective date of this act] and to state oil and gas leases entered into after [the effective date of this act] however, transportation charges paid before [the effective date] shall not be refunded."
Renumber: subsequent section


FIRST

WHITE

reading copy ()
color

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

March 4, 1987

The meeting of the Senate Natural Resources Committee was called to order by Chairman Thomas Keating on March 4, 1987, at 1:00 p.m. in Room 405 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 208: Representative Kelly Addy, District 94, stated that he carried HB 208 at the request of the Department of State Lands. Prior to last spring, the Department had interpreted the statutory authority to permit the Department's deducting proportionally the transportation cost of oil and gas that were developed on State lands. Last spring, the Department received legal interpretation to the contrary. Many people had entered into leases with the State on the assumption those costs could be deducted. Rep. Addy said the statute is amended to read as those involved originally interpreted the statute at the time State entered into the leases. HB 208 overrules the Department of State Land's attorney at the Department's own request.

PROPONENTS: Dennis Hemmer, Department of State Lands, supported the passage of HB 208. (Exhibit 1) Mr. Hemmer stated two other points:

1. "A deal is a deal."
2. Strip wells with low production are particularly affected by transportation costs.

Doug Abelin, Montana Oil and Gas, stated support of HB 208 not only for the reasons Mr. Hemmer had mentioned, but also because anything that is beneficial to the strippers at the present time is well appreciated.

Harold Ude, Cenex, Laurel, supported the bill.

OPPONENTS: There were no opponents.

QUESTIONS (AND DISCUSSION) FROM THE COMMITTEE: Sen. Keating asked Mr. Hemmer if there had been any problems with gas transportation and Mr. Hemmer replied that the Department had no problem in the past with gas, but simply wanted to rectify the problems Department did have with oil transportation costs.

CLOSING: Rep. Addy closed by asking Sen. Keating to carry the bill on the Senate floor.

CONSIDERATION OF HOUSE BILL 239: Representative Raymond J. Brandewie, District 49, Lake County, introduced HB 239 as being a rather simple piece of legislation that would authorize the use of the National Geodetic Survey 1983 Coordinate System for defining and stating points on the face of the earth within Montana. The 1983 coordinate system would replace the NAD 27 system developed in 1927 that is outdated. The 1983 Coordinate System is used by federal agencies, utility companies, mineral exploration companies and others on large-area mapping and control projects.

PROPOSERS: Bob Custer, Montana Association of Land Surveyors, explained that the Association had drafted the bill. The most important reason for using the 1983 coordinate system is to go to the mathematic model of the earth which was computed through the Space Program and developed in 1980. The previous model of NAD 27 was actually Clark's spheroid of 1866. Measuring ability has increased quite a bit and mathematic model now is within one meter of the center of the mass of the earth. This would allow use of the new satellite measuring capability down to the millimeter level--a very high degree of accuracy. HB 239 would establish a single zone coordinate system for the State of Montana. The system is used by people who do large area surveys. There would be no requirement to do it on property surveys. HB 329 allows for the late abandonment date of 1993 for NAD 27. NAD 83 has been adopted by 38 states thus far, and Mr. Custer explained NAD 83 would become the data base reference system for all the coordinate positions. (Exhibit 2)

Robb McCracken, President of Montana Association of Planners, stated that HB 239 has three main benefits:

1. It will allow the use of more precise satellite survey measuring equipment in Montana.
2. It may reduce the survey costs to the landowner for large survey projects.
3. It will increase the accuracy of public land survey records. (Exhibit 3)

Margaret Clark, Department of Commerce, supported the bill for the reasons Robb McCracken stated.

Pam Miller, Montana Land and Title Association, supported HB 239.

QUESTIONS (AND DISCUSSION) FROM THE COMMITTEE: Sen. Keating asked if this bill would change the metes and bounds discriptions; and Mr. Custer replied that it would not. It's strictly a reference system based on the coordinate system for the State for those people who want to use it on large surveys. Mr. Custer added that it would not cause any problems for transferral of land.

CLOSING: Rep. Addy requested Sen. Halligan to carry the bill.

CONSIDERATION OF HOUSE BILL 290: Rep. Gary Spaeth, District 84, explained that HB 290 would grant legislative authority for appropriation of ground water beyond 3,000 acre feet per year according to 85-2-317, MCA, to Dick and Sharon Ragland of Bridger who applied for 7,000 acre feet. Rep. Spaeth distributed copies of the report prepared by the Department of Natural Resources (Exhibit 4)

The application involves Bluewater Creek outside of Bridger. In the 1950's there was a well drilled, and there was a tremendous amount of artesian pressure; and the water flows into Bluewater Creek that serves downstream users and Bluewater Fish Hatcher. The water application is not for an increase in use of water, but employing the water for hydroelectric purposes before it flows into the creek. Rep. Spaeth emphasized that quality of water or flow of water would not be changed.

PROPONENTS: Larry Holman, DNRC, testified that the application needs legislative approval and that his department had reviewed the application and found no area that would cause problems. Existing users would be protected, and Mr. Holman asked the committee to look upon the bill with favor and give it a DO PASS.

OPPONENTS: There were no opponents.

QUESTIONS (AND/OR DISCUSSION) FROM THE COMMITTEE: Sen. Weeding asked if one well was in existence, and the proposal would be to drill another well. Rep. Spaeth replied that the plan is to cap the first well and there would be a new existing facility because first well is easier to cap than to renovate. Original well had been in existence for 30 years without any maintenance. Rep. Spaeth said the applicants are anticipating the same capacity in the next well to be drilled.

Sen. Halligan asked about provision of water flow in the permit. Rep. Spaeth confirmed that existing flow cannot be increased or decreased as specified on second page of Exhibit 4.

In response to Sen. Hofman's question, Rep. Spaeth stated that the land is privately owned.

Sen. Keating asked Mr. Hemmer about the number of applications received each year. Mr. Hemmer answered that since the law was enacted two years ago, Mr. Ragland's application and the Deadman Water Basin application were the only ones received.

Sen. Keating then asked about the oil and gas wells in the area, and Rep. Spaeth explained that the artesian well was actually drilled in search for oil, but there is no area within five or six miles with any interest.

Sen. Keating stated that the formation is a major oil producing formation in Wyoming.

Rep. Spaeth answered Sen. Severson's questions about opponents by saying that there is no one in opposition as there will be no impact on the stream. The fish hatchery had some concern. (See "B" in DNRC report.)

The question was asked by Sen. Keating if Raglands would be hooking into MPC system, and Rep. Spaeth said they would be and that MPC basically supports the project.

CLOSING: Rep. Spaeth explained that there will no negative impact on the stream. Sen. Weeding will carry the bill.

Sen. Keating called the meeting to order for an Executive Session.

DISPOSITION OF HOUSE BILL 208: Sen. Lynch moved that HB 208 BE CONCURRED IN. Motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL 239: Sen. Walker moved that HB 239 BE CONCURRED IN. Motion CARRIED unanimously.

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DISPOSITION OF HOUSE BILL 290: Sen. Keating stated that he understood according to law, Montana Power Company is required to buy the electricity at twice the rate the company charges for it; and passing HB 290 would add expense to MPC.

Sonny Hanson made a clarification that when MPC purchases the power, the Public Service Commission establishes the rate.

Sen. Weeding moved that HB 290 BE CONCURRED IN. Motion CARRIED unanimously. Sen. Weeding will carry the bill.


THOMAS F. KEATING, Chairman

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TESTIMONY FOR THE DEPARTMENT OF STATE LANDS

ON HOUSE BILL 208

(March 4, 1987, Room 406, 1:00 p.m.)

SENATE NATURAL RESOURCES

EXHIBIT NO. 1

DATE March 4, 1987

BILL NO. HB 208

The Department of State Lands supports the passage of House Bill 208 that would allow the deduction of the costs of truck transportation of the state share of oil to market. The Department has 136 oil producing leases of which approximately 50% have their oil transported by truck to a marketing facility. The average cost for transportation is 90¢ per barrel, therefore, the deduction to the state royalty would be approximately 12¢ per barrel.

The passage of this bill will put the State of Montana leases in line with other states such as Wyoming and North Dakota and federal oil leases. By charging the transportation costs to the state share based on the royalty percentage share, the state is being fair to the oil producer who is actually marketing the state oil. The Department feels that clearing up this issue will be an incentive to the producers of oil on state lands and especially the independent and small oil operators based in Montana. The majority of the small oil producers crude is transported by truck.

I would ask your passage of House Bill 208.